

Exhibit 9

2157 Improper Naming of Inventors [R-10.2019]

Although the AIA eliminated [pre-AIA 35 U.S.C. 102\(f\)](#), the patent laws still require the naming of the actual inventor or joint inventors of the claimed subject matter. See [35 U.S.C. 115\(a\)](#) ("[a]n application for patent that is filed under [\[35 U.S.C.\] 111\(a\)](#) or commences the national stage under [\[35 U.S.C.\] 371](#) shall include, or be amended to include, the name of the inventor for any invention claimed in the application"). The Office presumes that the named inventor or joint inventors in the application are the actual inventor or joint inventors to be named on the patent. See [MPEP § 2109](#). A situation in which an application names a person who is not the actual inventor as the inventor will be handled in a derivation proceeding under [35 U.S.C. 135](#) (see [MPEP §§ 2310-2315](#)), by a correction of inventorship under [37 CFR 1.48](#) to name the actual inventor, or through a rejection under [35 U.S.C. 101](#) and [35 U.S.C. 115](#), as appropriate.

Where an application names an incorrect inventorship, the applicant should submit a request to correct inventorship under [37 CFR 1.48](#). See [MPEP § 602.01\(c\)](#) *et seq.* In the rare situation where it is clear that the application does not name the correct inventorship and the applicant has not filed a request to correct inventorship under [37 CFR 1.48](#), Office personnel should reject the claims under [35 U.S.C. 101](#) and [35 U.S.C. 115](#).

Use Form Paragraph [7.04.02.aia](#) to reject claims under [35 U.S.C. 101](#) and [115](#) for failing to set forth the correct inventorship.

¶ 7.04.101.aia Statement of Statutory Bases, 35 U.S.C. 101 and 35 U.S.C. 115— Improper Inventorship

[35 U.S.C. 101](#) reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

[35 U.S.C. 115\(a\)](#) reads as follows (in part):

An application for patent that is filed under section [111\(a\)](#) or commences the national stage under section [371](#) shall include, or be amended to include, the name of the inventor for any invention claimed in the application.

The present application sets forth the incorrect inventorship because [\[1\]](#).

Examiner Note:

1. If form paragraph [7.04.01](#) is already being used for a rejection that is not based on improper inventorship, then in lieu of this form paragraph, use form paragraph [7.04.102.aia](#) with form paragraph [7.04.01](#) for a rejection based on improper inventorship.
2. In bracket 1, insert the basis for concluding that the inventorship is incorrect
3. This form paragraph must be followed by form paragraph [7.04.02.aia](#).

¶ 7.04.102.aia Statement of Statutory Basis, 35 U.S.C. 115 — Improper Inventorship

35 U.S.C. 115(a) reads as follows (in part):

An application for patent that is filed under section **111(a)** or commences the national stage under section **371** shall include, or be amended to include, the name of the inventor for any invention claimed in the application.

The present application sets forth the incorrect inventorship because **[1]**.

Examiner Note:

1. This form paragraph is to be used ONLY when a rejection under **35 U.S.C. 101** on another basis has been made and the statutory text thereof is already present.
2. This form paragraph must be preceded by form paragraph **7.04.01** for a rejection based on improper inventorship.
3. In bracket 1, insert an explanation of the supporting evidence establishing that an improper inventor is named.

¶ 7.04.02.aia Rejection, 35 U.S.C. 101/115

Claim **[1]** rejected under **35 U.S.C. 101** and **35 U.S.C. 115** for failing to set forth the correct inventorship for the reasons stated above.

Examiner Note:

1. In bracket 1, pluralize "Claim" if necessary, insert "is" or "are" as appropriate, and insert the claim number(s) which are under rejection.
2. This rejection must be preceded by either form paragraph **7.04.101.aia** or **7.04.102.aia**.

Note that a rejection under **pre-AIA 35 U.S.C. 102(f)** should not be made if the application is subject to examination under the first inventor to file (FITF) provisions of the AIA. See **MPEP § 2159** *et seq.* to determine whether an application is subject to examination under the FITF provisions, and **MPEP § 2137** for information pertaining to **pre-AIA 35 U.S.C. 102(f)**.